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UNITED NATIONS

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ENGLISH ONLY*

LAWS AND REGULATIONS

PROMULGATED TO GIVE EFFECT TO THE PROVISIONS OF THE INTERNATIONAL TREATIES ON NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

In accordance with the relevant articles of the international treaties on narcotic drugs and psychotropic substances, the Secretary-General has the honour to communicate the following legislative texts.

BANGLADESH

Communicated by the Government of Bangladesh

NOTE BY THE SECRETARIAT

(a) Some editing of texts may be done by the Secretariat in the interest of clarity. In this connection, words in square brackets [ ] have been added or changed by the Secretariat.

(b) Only passages directly relevant to the control of narcotic drugs or psychotropic substances have been reproduced in this document. Non-relevant parts of laws and regulations have been deleted by the Secretariat; such deletions are indicated by [...].

THE NARCOTICS CONTROL ACT,1990

Act No. XX of 1990

Whereas it is expedient to provide for the control of narcotic drugs and psychotropic substances and treatment and rehabilitation of narcotics addicts ;

It is hereby enacted as follows :-

1. **Short title and Commencement.**—(1) This Act may be called the Narcotic Drugs and Psychotropic Substances Control Act, 1990.

(2) It shall be deemed to have come into force on the second day of January, 1990.

2. **Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

(a) "Department" means the Department of Narcotics Control established under this Act ;

(b) "Alcohol" means spirit and any kind of liquor or wine and includes any liquid containing more than five percent of alcohol ;

(c) "Physician" means registered dentist and registered medical practitioner as defined in clause (l) and (m) of Section 2 of Medical and Dental Council Act, 1980 (XVI of 1980) and includes registered veterinary practitioner as defined in Section 2 (g) of Bangladesh Veterinary Practitioner Ordinance 1982 (XXX of 1982) ;

*) Note by the Secretariat: The present document is a direct reproduction of the text communicated to the Secretariat. The original and official text is in Bangla.

(d) "Distillery" means any establishment for the manufacture of alcohol ;

(e) "Schedule" means any schedule annexed to this Act ;

(f) "Permit" means permit issued under this Act ;

(g) "Pass" means pass issued under this Act ;

(h) "Rules" means Rules made under this Act ;

(i) "Board" means the National Narcotics Control Board established under this Act ;

(j) "Brewery" means any establishment or centre for the manufacture of alcoholic beverages like beer ;

(k) "Director General" means Director General appointed under this Act ;

(l) "Narcotics" means any narcotic drugs or psychotropic substances or any other substance mentioned in the First Schedule ;

(m) "A-Class Narcotics", "B-Class Narcotics" and "C-Class Narcotics" means the narcotics mentioned in the First Schedule respectively as A-Class Narcotics, B-Class Narcotics and C-Class Narcotics ;

(n) "Narcotics-addict" means a person physically or mentally dependent on narcotics or a person who habitually takes narcotics ;

(o) "Narcotics Addiction Treatment Centre" means a narcotics-addiction treatment centre established or so declared under this Act ;

(p) "Licence" means licence issued under this Act ;

(q) "Place" means any homestead, a transport whether it is stationary or in motion and includes airports, seaports, foreign post offices and immigration and coustoms checkposts.

3. **Act to override other laws.**—Notwithstanding anything contained in any other law for the time being in force, the provisions of this Act and rules made thereunder shall have effect.

4. **Establishment of National Narcotics Control Board.**—(1) To fulfil the objectives of this Act, there shall be a Board namely National Narcotics Control Board.

(2) The Board shall consist of the following members, *viz* :—

(a) A Chairman to be nominated by the Government ;

(b) Minister in charge of the Ministry or Division of Foreign Affairs ;

(c) Minister in charge of the Ministry or Division of Home Affairs ;

(d) Minister in charge of the Ministry or Division of Health ;

(e) Minister in charge of the Ministry or Division of Education ;

(f) Minister in charge of the Ministry or Division of Information ;

(g) Minister in charge of the Ministry or Division of Social Welfare and Women Affairs ;

(h) Minister in Charge of the Ministry or Division of Finance ;

(i) Minister in charge of the Ministry or Division of Planning ;

(j) Minister in charge of the Ministry or Division of Local Government ;

(k) Minister in charge of the Ministry or Division of Religious Affairs ;

(l) Minister in charge of the Ministry or Division of Youth and Sports ;

(m) Secretary of the Ministry of Law and Justice ;

(n) A distinguished social worker to be nominated by the Government ;

(o) A distinguished philanthropist to be nominated by the Government ;

(p) A distinguished intellectual to be nominated by the Government ;

(q) A distinguished journalist to be nominated by the Government ;

(r) A distinguished physician or psychiatrist to be nominated by the Government ;

(s) Director General, who shall also be the Secretary of Board.

(3) If there is no Minister in a Ministry or Division as mentioned in Sub-section (2) then the State Minister in charge of that Ministry or Division, if any, shall be the member of the Board.

(4) Any nominated member of the Board shall hold office for a term of two years from the date of his nomination :

Provided that the Government may cancel his nomination at anytime.

(5) Any nominated member may resign from his office by a letter addressed to the Government under his signature.

5. **Functions and responsibilities of the Board.**—The Board shall have the following functions and responsibilities, namely :—

(a) To frame policies for prevention of possible injurious effects of narcotics and to take measures for their implementation ;

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(b) To undertake any research or survey for the collection of data and information relating to various aspects of narcotics ;

(c) To frame policies relating to manufacture, supply, use, and control of narcotics ;

(d) To frame policies relating to treatment and rehabilitation of narcotics addicts and to take measures for their implementation ;

(e) To undertake educational and publicity measures for creating necessary public awareness about the evil effects of narcotics ;

(f) To maintain liaison with all the concerned Ministries and Agencies relating to anti narcotics matters and to coordinate all such activities ;

(g) To take any measure necessary for the performance of the aforesaid functions and responsibilities ;

6. **Meeting.**—(1) Subject to the other provisions of this section the Board shall determine the procedure of its meetings.

(2) All meetings of the Board shall be held at the place and time as determined by the Chairman.

(3) The Chairman shall preside over all meetings of the Board and in his absence any other member of the Board nominated by him shall preside.

(4) The quoram of a meeting of the Board shall be constituted by one-fourth of the total members.

(5) No action or proceeding of the Board shall be illegal on the ground that any defect or vacancy exists in the constitution of the Board not shall such an action or proceeding be questioned only on that ground.

7. **The National Narcotics Control Board Fund.**—(1) The Board may consitute a separate fund, namely, National Narcotics Control Board Fund for the purpose of collection of funds, in addition to usual budgetary grants of the Government, with a view to creating public awareness about ill effects of narcotics and for the treatment and rehabilitation of the narcotics addicts.

(2) The following monies shall be credited in the aforesaid Fund, namely :—

(a) Grants made by the Government ;

(b) Grants made by any foreign Government or institution or any international agency ;

(c) Grants made by any local authority ;

(d) Donations made by any individual or institution ;

(e) Any money from any other source.

(3) All monies of the Fund shall be deposited in any sheduled bank.

(4) The operation of the fund and maintenance of its accounts shall be made as per procedure and forms prescribed by rules.

(5) The accounts of income and expenditure of the Fund shall be audited in the manner and by the authority prescribed by rules.

(6) The audit authority may examine all the books and documents relating to the Fund and if necessary may examine any member of the Board and any officer or any employee of the Department.

(7) On completion of the audit, the audit authority shall submit its report to the Government.

8. **Department of Narcotics Control.**—(1) The Government shall establish a Department *viz.* Department of Narcotics Control for the purposes of implementation of the objectives of this Act.

(2) The Department shall aid the Board in the discharge of its functions and shall be responsible for implementation of its decisions.

9. **Prohibition of production etc. of narcotics except alcohol.**—(1) Save alcohol there shall not be any cultivation, production, processing, carrying, transportation, import, export, supply, purchase, sale, possession, preservation, warehousing, exhibition or use of any narcotics.

(2) Anything or plant which is used in the production of narcotics shall not be cultivated, produced, processed, carried, transported, imported, exported, supplied, purchased, sold, possessed, preserved, warehoused, exhibited or used.

(3) Notwithstanding anything contained in sub-section (1) and (2), any narcotics or thing or plant covered by the aforesaid sub-sections, which is used in the manufacture of any approved medicine or is necessary for undertaking any scientific researach may under this Act—

(a) be manufactured, processed, imported, exported, supplied, purchased, sold, possessed, preserved, warehoused and exhibited under licence ;

(b) be used under permit ;

(c) be carried or transported with pass.

10. Provision for production etc. of alcohol.—(1) No person without any licence issued under this Act—

(a) Shall establish any distillery or brewery ;

(b) Shall produce, process, carry, transport, import, export, supply, purchase, sale, possess, preserve, warehouse, exhibit or use any alcohol ;

(c) Shall use any alcohol as a component for the production of any medicine.

(2) No preson shall drink alcohol without a permit issued under this Act, and permit may be granted to a Muslim for drinking alcohol on a written prescription given by a physician not below the rank of a Civil Surgeon or an Associate professor of Medicine of a Medical College only for the purpose of medical treatment.

(3) Prescription given under sub-section (2) shall specify the name of the disease for which drinking of alcohol has been considered necessary for treatment and the physician shall give a certificate to that effect in the prescription.

(4) Notwithstanding anything contained in this section any foreign citizen may drink alcohol in a lincensed Bar.

(5) No provision of this section shall apply in respect of import, export, purchase, transport, preservation or drinking or alcohol by a foreign citizen holding a diplomatic passport or a passbook issued by the Customs authority or covered by the Baggage Rules in force as the case may be.

11. **Issue of licence etc.** —(1) The Director General or any officer authorised by him in this behalf shall issue licence, permit and pass as per the procedure, forms, conditions and payment of fees perscribed by rules under this Act.

(2) Subject to conditions specified therein a licence, permit or pass issued under this Act shall remain valid for the period fixed by it or till the expiration of the concerned financial year from the date of its issue :

Provided that a licence issued to any Laboratory, Distillery or Brewery may be renewed annually on payment of fees prescribed by Rules if the licensee does not violate any provision of this Act or commit breach of any condition of the licence.

12. **Restrictions on issue of licence etc.**—(1) Notwithstanding anything contained in this Act, no person shall be elligible to get a licence or permit under this Act, if—

(a) he is convicted of a criminal offence involving moral turpitude for a period not less than three months and a period of three years from the date of his release has not elapsed or he is convicted with fine of more than taka five hundred and three years have not elapsed from the date of realisation of such fine ;

(b) he is convicted by any court for any offence punishable under this Act ;

(c) he has violated any condition of licence or permit issued under this Act for which such licence or permit has been cancelled.

13. **Restrictions on prescription of narcotics.**—(1) No physician shall prescribe any A-Class or B-Class narcotics as medicine without written approval of the Director General.

(2) No person other than a physician shall prescribe any C-Class narcotics as medicine.

(3) No person shall be allowed to purchase any narcotics more than once with a prescription issued under sub-section (1) or (2).

14. **Power to temporarily close any shop.**—(1) If a District Magistrate or a Police Commissioner is satisfied that for the maintenance of law and order any narcotics shop within his jurisdiction should be temporarily closed down, he, may, by an order in writing, close the shop for a period not exceeding fifteen days, which may be extended by another thirty days with the approval of the Board.

(2) A copy of the order made under sub-section (1) shall immediately be sent to the Director General for his information.

15. **Narcotics Addiction Treatment Centre.**—(1) The Government may establish one or more Narcotics addiction treatment centre for the purposes of this Act.

(2) The Government may declare any Government hospital or health centre including a jail hospital as a Narcotics Addiction Treatment Centre by notification in the official gazette.

16. **Treatment of narcotics addicts.**—(1) If the Director General or any officer authorised by him in this behalf becomes aware that any person often remains in a state of abnormalcy for being addicted to narcotics and his treatment is urgently necessary to bring him back to normal life, the Director General or the aforesaid officer may direct the narcotics addicted person by a notice in writing to submit himself for treatment by competent physician or at a narcotics-addiction treatment centre within seven days from the date of receipt of such notice.

(2) If the person mentioned in the notice issued under sub-section (1) is unable to understand the meaning of the notice, the notice shall be served upon his guardian or custodian and the person upon whom such notice is served, shall produce the narcotics addicted person oefore any physician or narcotics addiction treatment centre for treatment.

(3) If the directions given in the notice issued under sub-section (1) or (2) are not complied with within seven days from the date of receipt of the notice, the officer issuing the notice, after expiry of the said period, may apply to the concerned District Magistrate or Chief Metropolitan Magistrate for directing the compulsory treatment of the narcotics addicted person.

(4) On receipt of an application under sub-section (3) the District Magistrate or the Chief Metropolitan magistrate shall direct the narcotics addicted person or his custodian or guardian as the case may be by notice in writing to show cause within seven days from the receipt of such notice, by appearance in person or through a representative, as to why the narcotics addicted person shall not be sent to a particular physician or narcotics-addiction treatment centre for compulsory treatment.

(5) If, on receipt of direction under sub-section (4) the cause is shown within due time, the District Magistrate or the Chief Metropolitan Magistrate, within a period not exceeding fifteen days, may after hearing the narcotics addicted person or his custodian or guardian or his representative as the case may be and the applicant mentioned in sub-section (3), by an order direct the compulsory treatment of the narcotics addicted person by the physician or at the narcotics-addiction treatment centre as may be mentioned in the said order or may reject the application.

(6) If, the person to whom notice issued under sub-section (4) has been served, fails to show cause within the stipulated period, then the District Magistrate or the Chief Metropolitan Magistrate after considering the application filed under sub-section (3) shall either order the compulsory treatment of the narcotics addicted person or reject the application.

(7) If the narcotics addicted person does not appear or is not produced within seven days from the service of notice issued under sub-section (5) or (6) before the physician or the narcotics-addiction treatment centre for treatment as mentioned in the order, the officer making the application under sub-section (3) may, if necessary, apply force to produce the narcotics addicted person before the aforesaid physician or to the narcotics-addiction treatment centre for treatment.

(8) The Government shall bear all expenses for any compulsory treatment under this section.

17. **Supply of informations relating to narcotics addiction.**—(1) If any member of a family become addicted to narcotics, the head or any other adult person of the aforesaid family shall inform the Director General or any officer subordinate to him about the same.

(2) If it appears to any physician that any person under his treatment is addicted to narcotics which requires treatment he shall advice the addicted person about such treatment and shall also inform the Director General in writing regarding the necessity of such treatment.

18. **Narcotics Duty.**—(1) Narcotics Duty shall be levied upon all kinds of produced alcohol at the rate as mentioned in the Second Schedule.

(2) The duty so levied under sub-section (1) shall be realised by the Director General or any officer or employee subordinate to him in the manner prescribed by rules and the same shall be deposited in the Head of Accounts as prescribed by the rules.

19. **Penalty for breach of provisions of section-9.**—(1) If any person violates any provision of section 9 relating to the narcotics specified in column 2 of the following table, other than sub-section 1 and 2 of section 9 relating to cultivation, he shall be punished with the penalty mentioned in column (3) of the Table against the said narcotics, *viz.* :

TABLE

Sl.No.	Name of drugs	Penalty
1.	2.	3.
1	Heroin, Cocaine and Coca derivatives.	(a) If the quantity of narcotics does not exceed 25 grams—imprisonment for a term which shall not be less than 2 years and shall not exceed 10 years. (b) If the quantity of narcotics exceed 25 grams—death sentence or imprisonment for life.
2	Pethidine, Morphine Tetrahydrocannabinol.	(a) If the quantity of narcotics does not exceed 10 grams—imprisonment for a term which shall not be less than 2 years and shall not exceed 10 years. (b) If the quantity of narcotics exceeds 10 grams—death sentence or imprisonment for life.
3	Opium, Cannabis resin or opium derivatives.	(a) If the quantity of narcotics does not exceed 2 kgs.—imprisonment for a term which shall not be less than 2 years and shall not exceed 10 years. (b) If the quantity of narcotics exceeds 2 kgs.—death sentence or imprisonment for life.

Sl.No.	Name of drugs	Penalty
1.	2.	3.
4	Methadone.	(a) If the quantity of narcotics does not exceed 50 grams—imprisonment for a term which shall not be less than 2 years and shall not exceed 10 years. (b) If the quantity of narcotics exceeds 50 grams—death sentence or imprisonment for life.
5	Other 'A' Class Narcotics.	Imprisonment for a term which shall not be less than 2 years and shall not exceed 15 years.
6	Absolute alcohol, rectified spirit, foreign liquor, country liquor, bear.	(a) If the quantity of narcotics does not exceed 10 litres—imprisonment for a term which shall not be less than 6 months and shall not exceed 3 years. (b) If the quantity of narcotics exceeds 10 litres—imprisonment for a term which shall not be less than 3 years and shall not exceed 15 years.
7	Ganja or any kind of herbal cannabis.	(a) If the quantity of narcotics exceeds 5 kgs. imprisonment for a term which shall not be less than 6 months and shall not exceed 3 years. (b) If the quantity of narcotics exceeds 5 kgs./imprisonment for a term which shall not be less than 3 years and shall not exceeds 3 years.
8	Cannabis plant of any species.	(a) If the number of cannabis plants does not exceeds 25—imprisonment for a term which shall not be less than 6 months and shall not exceed 3 years. (b) If the number of cannabis plants exceeds 25—imprisonment for a term which shall not be less than 3 years and shall not exceeds 3 years.
9	Phencyclidine, Methaqualone, LSD, Barbiturates, Amphetamine or drugs manufactured with any one of them.	(a) If the quantity of narcotics does not exceed 5 grams—imprisonment for a term which shall not be less than 6 months and shall not exceed 3 years. (b) If the quantity of narcotics exceeds 6 grams—imprisonment for a term which shall not be less than 5 years and shall not exceed 15 years.

Sl No.	Name of drugs	Penalty
1.	2.	3.
10	Other B-Class narcotics.	Imprisonment for a term which shall not be less than 6 months and shall not exceed 5 years.
11	C-Class narcotics.	Imprisonment for a term which shall not be more than 1 year or fine not exceeding Tk. 10 thousand or with-both.

(2) If any person cultivates any A-Class narcotics he shall be liable to imprisonment which shall not be less than 2 years but shall not exceed 15 years and in addition shall also be liable to fine .

(3) If any person cultivates any B-class narcotics he shall be liable to imprisonment which shall not be less than 2 years but shall not exceed 10 years and in addition shall also be liable to fine.

(4) For all offences other than those mentioned at serial 11 of the table in sub-section (1) the offender shall be liable to fine in addition to the sentence specified against the offence.

(5) If any convicted person after suffering the term of punishment imposed upon him for the commission of any offence under this section again commits any offence under this section and if the penalty for the said offence is not sentence of death or imprisonment for life, he shall be liable to double the amount of maximum punishment prescribed for the said offence.

20. **Penalty for keeping machineries etc. which can be used for producing narcotics.**—If any machinery, equipment or material usable for producing narcotics is found in the possession of any person or in any place under his occupation to whom licence under this Act has not been issued he shall be punishable with imprisonment which shall not be less than 2 years but shall not exceed 15 years and in addition shall also be liable to fine.

21. **Penalty for letting out homestead or transport etc. for the commission of offence.**—If any person knowingly permits the use of any homestead, land, transport, machinery, or equipment under his ownership or possession for the commission of any offence, under this Act, he shall be punishable with imprisonment which shall not exceed 5 years or with fine or with both.

22. **Penalty for acts without licence etc.**—If any person—

(a) Does anything mentioned in section 9(3) (a) without licence under this Act he shall be punishable with imprisonment which shall not be less than 2 years but shall not exceed 10 years and in addition shall also be liable to fine.

(b) Does anything mentioned in section 9 (3) (b) or (c) without permit or pass under this Act he shall be punishable with imprisonment which shall not exceed 2 years or with fine which shall not exceed Taka 5 thousand or with both.

(c) Does anything mentioned in section 10 (1) without licence under this Act, he shall be punishable with imprisonment which shall not be less than 2 years but shall not exceed 10 years and in addition shall also be liable to fine.

(d) Does anything mentioned in section 10 (2) without permit under this Act he shall be punishable with imprisonment which shall not exceed 2 years or with fine which shall not exceed Taka 5 thousand or with both.

23. **Penalty for breach of conditions of licence etc.**—(1) If any perosn—

(a) Commits breach of any condition of a licence issued under this Act he shall be punishable with imprisonment which shall not exceed 5 years or with fine which shall not exceed Taka 10 thousand or with both.

(b) Commits breach of any condition of a permit or pass issued under this Act, he shall be punishable with imprisonment which shall not exceed 2 years or with fine which shall not exceed Taka 5 thousand or with both.

(2) Gives a prescription in violation of the terms and conditions laid down by the Director General under section 13 he shall be punishable with imprisonment which shall not exceed 1 year or with fine or with both.

24. **Penalty for illegal or harassing search etc.**—If any officer empowered to search, seize or arrest under this act—

(a) Without reasonable grounds for suspicion enters any place on the pretext of a search under this Act, and conducts a search.

(b) On the plea of search for any goods liable to confiscation under this Act, unnecessarily or to harass, seizes any property belonging to any person.

(c) Unnecessarily or to harass, searches or arrests any person; than he shall be punishable with imprisonment which shall not exceed 1 year or with fine or with both.

25. **Penalty for instigation to commit offence etc.**—If any person instigates or aids any body or conspires with any body for the commission of any offence under this Act, whether the offence be committed or not, he shall be punishable with imprisonment which shall not be less than 3 years but shall not exceed 15 years and in addition, shall also be liable to fine.

26. **Penalty for offences for which punishment has not been prescribed.**—If any person violates any such provision of this Act or Rules made thereunder for which separate punishment has not been laid down then he shall be punishable with imprisonment which shall not exceed 1 year or with fine which shall not exceed Taka 5 thousand or with both.

27. Cancellation of licence etc.—(1) Notwithstanding anything contained in this Act, a licence, permit or pass may be cancelled; by the officer who issued the licence, permit or pass, as the case may be, by giving the holder of the licence, permit or pass an opportunity to show cause; for breach of any of the conditions subject to which the licence, permit or pass was issued or for any offence committed under this

Act by the person holding any such licence, permit or pass or if he is convicted for a cognizable offence committed under any law.

(2) Any person aggrieved by an order passed under sub-section (1), may, within thirty days of the receipt of the order, prefer an appeal—

(a) To the Director General if the order is passed by an officer subordinate to the Director General.

(b) To the Government if the order is passed by the Director General.

(3) The judgement given by the appellate authority referred to in sub-section (2) shall be final and no suit shall lie against it in any court.

28. **Temporary suspension of licence etc.**—(1) Notwithstanding anything contained in section 27, the officer issuing a licence, permit or pass under this Act, may by an order in writing, subject to other steps taken under this Act, suspend the licence, permit or pass, as the case may be, for a period not exceeding sixty days, if in his opinion, the terms and conditions of such licence, permit or pass are not being properly observed or if there has been any contravention of the said terms and conditions.

(2) Any person aggrieved by an order passed under sub-section (1) may, within thirty days of the receipt of the order, prefer an appeal—

(a) To the Director General if the order is passed by any officer subordinate to him;

(b) To the Government if the order is passed by the Director General.

(3) The judgement of the Appellate Authority under Sub-section (2) shall be final and no suit shall lie against it in any court.

29. **Offences by companies.**—If any company violates the provisions of this Act, the Proprietor, Director, Manager, Secretary or any other officer or agent shall be deemed to be guilty of the violation unless he can prove that the violation was committed without his knowledge or that he has exercised all due diligence to prevent the occurrence of such violation.

Explanation.—In this Section—

(a) "Company" means a statutory Government Authority, a commercial firm and any association or organisation;

(b) "Director" in relation to a commercial firm means a partner in the firm or any member of its Board of Directors.

30. **Presumption as to offence.**—If any narcotics or any equipment or apparatus which can be used in the production of narcotics or any thing or ingredient which can be used for the manufacture of narcotics is found with any person or in any place under his possession or control and if such control or possession contravenes any section of this Act, the court may presume that he has contravened that section and the burden of proof that he has not done so lies on him.

31. **Cognizance of offences.**—Notwithstanding anything contained in any other law for the time being inforce, all offences punishable under this Act, shall be cognizable offences.

32. **Power of entry etc.**—The Director General or any officer authorised in general or specially in this behalf by him, may subject to the provisions of the rules,—

(a) at any time enter and inspect any place in which narcotics is being manufactured or stored or has been manufactured or stored under licence;

(b) at any time during ordinary hours of business enter and inspect any shop where narcotics, manufactured or procured under licence, are kept for sale;

(c) in any place or shop mentioned in clauses (a) and (b),—

(i) examine the accounts and registers maintained;

(ii) examine, weigh and measure all narcotics and all apparatus, materials and utensils used in the manufacture thereof which are found, in such place;

(iii) examine and seize weights, measuring scales or testing equipments which are found or considered to be defective on examination.

33. **Narcotics etc. liable to confiscation.**—(1) Whenever any offence under this Act has been committed, the narcotics, equipments, apparatus, ingredients, utensils, receptacles, packages and coverings, transports or any other thing in respect of which or by which such offence has been committed, shall be liable to confiscation.

(2) If, at the time of commission of the offences, any lawful narcotics is found along with narcotics liable to confiscation under sub-section (1) the same shall also be liable to confiscation.

(3) Notwithstanding anything contained in this section, if any transport or equipment of the Government or of a statutory Government Authority is used in the commission of an offence under sub-section (1), the same shall not be liable to confiscation.

34. **Procedure for confiscation.**—(1) Where, during the trial of an offence under this Act, the Court finds that any seized article is liable to confiscation under section 33, the Court shall, whether the offence is proved or not—

(a) Order confiscation of the article if it is a narcotics;

(b) May order confiscation of the article if it is not narcotics.

(2) Where any article liable to confiscation under section 33 is seized but the offender cannot be found, the Director General or any officer superior to the officer making the seizure, empowered by the Director General in this behalf, may by order in writing confiscate it :

Provided that before an order of confiscation is passed a notice in the manner prescribed by rules shall be issued to give an opportunity for filing objections against such confiscation and reasonable chance for hearing shall be given to the objector within the period mentioned in the notice which shall not be less than fifteen days from the date of service of the notice.

(3) Any person aggrieved by an order under sub-section (2) may, within thirty days of the receipt of the order, prefer an appeal—

(a) To the Director General if the order is passed by any officer subordinate to the Director General;

(b) To the Government if the order is passed by Director General.

(4) The judgement of the appellate authority under sub-section (3) shall be final and no suit shall lie in any court against it.

35. **Disposal of articles confiscated and seized**—Any article liable to confiscation under this Act shall, as soon as the order for confiscation has been made, be delivered to the Director General who shall arrange its disposal through use, transfer or destruction or any other method prescribed by rules.

36. **Power of search etc. without warrant.**—If the Director General or any officer authorised in general or specially in this behalf by him or a police officer of the rank of Inspector and above or a Customs officer of the rank of Inspector or equivalent or above or any subordinate officer of the Bangladesh Rifles or above has reason to believe that an offence under this Act has been or is being committed or is likely to be committed in any place he may, after recording the reasons for such belief, at any time—

(a) Enter the premises and search and in case of resistance take necessary steps including the breaking of doors and windows to remove any obstacle.

(b) Seize all narcotics or articles used in the commission of the offence or any article which is liable to confiscation under this Act or any document, paper or article which may furnish evidence of the commission of an offence under this Act, which are found during the search;

(c) Conduct physical search of any person who is found there;

(d) Arrest any person present threin who, he has reason to believe, has committed or is going to commit an offence under this Act.

(2) Notwithstanding anything contained in sub-section (1) any officer mentioned in the aforesaid sub-section may, after recording the reasons for his belief, enter and search any place between sunset and sunrise if he has reasons to believe that any article relating to an offence may be destroyed or lost or the offender may escape.

37. **Special examination for body search.**—While making any investigation or search under this Act, any officer who has reasons to believe that any person has concealed any narcotics in any part of his body may, after recording the grounds for such belief, order the person to submit himself for X-ray or any other examination including urine examination and if such person refuses to comply with the order, the officer passing the order may take any measure including use of force to compel the person to comply with the order.

38. **Intimation to superior officer about seizure, etc.**—Whenever any person is arrested or any article is seized under this Act, the officer making the arrest or seizure, as the case may be, shall forthwith inform his superior officer in writing about such arrest or seizure and shall send a copy of the report to the Director General.

39. **Power of investigation of Director General, etc.**—(1) The Director General shall have the powers of an officer-in-charge of a police station for investigation of offences under this Act.

(2) The Government may be a notification in the official gazette, invest any officer subordinate to the Director General with the powers of an officer-in-charge of a police station for investigation of offences under this Act.

40. **Power to issue warrants.**—(1) The Director General or any officer subordinate to him authorised by the Government in this behalf or a Magistrate of the first class, who has reasons to believe that—

(a) A person has committed any offence under this Act;

(b) Any article relating to any offence under this Act or any document, paper or article which may furnish evidence or the commission of such an offence has been kept in any place or with any person;

may, after recording the reasons for such belief, issue a warrant for the arrest of such person or for making a search of such place by day or by night.

(2) The person to whom a warrant under sub-section (1) is sent shall have all the powers of execution which officers acting under section 36 have.

41. **Power of seizure or arrest in places open to the public, etc.**—If any officer, mentioned in section 36, has reasons to believe that in any place open to the public or in any moving transport:—

(a) Any narcotics in contravention of this act or any article liable for confiscation or any document which may furnish evidence about the commission of an offence under this act has been kept, he may after recording the reasons for such belief, search the place or transport and seize such narcotics, article or document;

(b) Any person who has committed or is about to commit an offence under this Act is present, he may detain and search such person after recording the reasons for such belief and may arrest him if it is found that such person is in possession of any narcotics or article or document as mentioned in clause (a).

42. **Procedure for making search, etc.**—In the absence of anything contrary in this Act, the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898) shall apply to all warrants issued and searches, arrests and seizures made under this Act.

43. **Obligations for mutual cooperation.**—All officers mentioned in section 36 shall, on being requested, be legally bound to render every assistance and cooperation to each other in carrying out the provisions of the Act.

44. **Transfer of investigation of cases.**—If, during investigation of an offence under this Act, the Director General requests the investigating authority in writing to transfer the investigation of a case, such authority shall thereupon transfer the investigation to the officer specified by the Director General and the Officer, to whom the investigation is transferred may, if necessary, start *denovo* investigation or

take up investigation from the stage where the investigation is handed over and take necessary measures on completion of the investigation.

45. **Provisions regarding persons arrested or articles seized.**—(1) Whenever a person is arrested or an article seized under a warrant issued under section 40, such person or article shall, forthwith be sent to the officer issuing the warrant.

(2) When any officer other than the Director General or an officer authorised by him or a police officer arrests any person or seizes any article under sections 36 and 41 he shall forthwith send such person or article to the Officer-in-Charge of the nearest police station or to the nearest officer empowered under section 39 as an Officer-in-Charge of a police station.

(3) The officer, to whom any person or article is sent under sub-section (1) and (2) shall, as soon as practicable, take appropriate legal measures in respect of such person or article.

46. **Examination of bank accounts, etc.**—(1) Whenever the Director General or any officer subordinate to him, has reasons to believe that any person has been acquiring wealth and assets by being associated with offences under this Act and it is necessary to examine his bank accounts or income tax or wealth tax records to initiate action against him under the provisions of this Act, he may, after recording the reasons of such belief, apply to the Sessions Judge for permission to examine such accounts or records :

Provided that, an officer subordinate to the Director General shall take written permission from the Director General before making such an application.

(2) The Sessions Judge shall dispose of the application submitted under sub-section (1) after due consideration and after giving the applicant an opportunity of being heard and if the permission prayed for seems to be reasonable, he shall give permission and send a copy thereof to the concerned bank and tax authority.

(3) An officer permitted under sub-section (2) shall intimate the progress and result of his examination to the Sessions Judge at the time so fixed by him.

47. **Prohibition of transfer of property, etc.**—(1) If, during the investigation of an offence under this Act, an officer has good reason to believe that any person is in possession of property acquired through such offence he may, after recording the grounds for such belief, apply to the Sessions Judge for an order of restraint on sale, mortgage, transfer or any other transaction pertaining to that property until the investigation is completed.

(2) The Sessions Judge shall dispose of the application submitted under sub-section (1) after due consideration of the application and after giving a reasonable chance of hearing to the applicant as well as to the person against whom the prayer has been made and if he thinks it reasonable, he shall pass the order prayer for :

Provided that if the investigation is not completed within three months, the Sessions Judge may, on application made by the investigating officer, extend the time by a period not exceeding three months :

Provided further that subject to the disposal of the application after hearing both sides, the Sessions Judge may, on special grounds, pass temporary order regarding the application on hearing the applicant only.

(3) If during the trial of a case under this Act the complainant makes a prayer to the court that confiscation of the property of the accused person will be necessary if the offence is proved and for this reason, an order of restraint on sale, mortgage, transfer or any other transaction pertaining to his property is necessary, till the disposal of the case, the court shall pass such order if it considers it necessary after giving a reasonable opportunity of hearing to both the parties.

48. **List of narcotics addicts.**—(1) The Director General shall prepare a district-wise list of narcotics addicts to facilitate their treatment.

(2) Any narcotics addict or his caretaker or guardian or physician may apply in writing to the Director General to get his name included in the list prepared under sub-section (1) and the Director General may enlist his name on such prayer.

(3) The Board shall take measures, as far as practicable, for the appropriate treatment of the addicts enlisted under this section.

49. **Restrictions on issuing certain licences.**—(1) No licence for any fire-arms or for driving any transport shall be issued to any person who has been convicted under any section other than under section 24 of this Act or is under compulsory treatment under section 16 or is enlisted as a narcotics addict under section 48, and, if he already holds such a licence, it shall automatically be cancelled.

(2) Upon cancellation of licence of any person under sub-section (1) he or his caretaker or guardian, as the case may be, shall within fifteen days from the date of such cancellation surrender the licence either to the officer who issued it or to the nearest police station and if the licence is for a fire-arms, the fire-arms shall also be surrendered with it.

50. **Chemical examiner and his report.**—(1) The Government may, for the purposes of this Act, establish a laboratory for chemical examination of any narcotics or any ingredient of narcotics and appoint a chemical examiner for the purpose.

(2) Whenever, at any stage of any proceeding under this Act, chemical examination of any article becomes necessary, it shall be sent to the chemical laboratory established under sub-section (1).

(3) The report of any chemical examination signed by the chemical examiner may be used as evidence in any investigation, trial or in other proceeding under this Act.

(4) Till such time that a chemical laboratory is established under this Act chemical examination mentioned in this section may be conducted in any laboratory specified by the Government in this behalf.

51. **Acts done in good faith.**—No civil suit, criminal case or any other legal proceeding shall lie against the Government, Board or an officer or person for any act done in good faith under this Act or rules made thereunder because any person has been affected or is likely to be affected by such act.

52. **Disposal of certain matters in the manner prescribed by rules.**—If there is any provision in this Act for doing something but no provision is available specifying the authority or manner by which it is to be done, the same shall be done by the authority and in the manner specified by the rules.

53. **Delegation of powers.**—The Director-General may, by order in writing, delegate any of his powers or duties under this Act to any officer subordinate to him if it is so required.

54. **Claims for compensation etc. unacceptable.**—Notwithstanding anything contained in any other law for the time being inforce, no person holding a licence, permit or pass, as the case may be, shall claim damages or refund of fees paid by him on the ground of being affected by an order passed under section 27 or 28.

55. **Power to make rules.**—The Government may, by notification in the official gazette, make rules for carrying out the purposes of this Act.

56. **Repeals and savings.**—On the commencement of this Act, Opium Act, 1857 (Ben Act XIII of 1857), Opium Act, 1878 (I of 1878) Excise Act, 1909 (Ben Act V of 1909), Dangerous Drugs Act, 1930 (II of 1930) and Opium Smoking Act, 1932 (Ben Act X of 1932) hereinafter referred to as the said Acts, shall stand repealed.

(2) Upon the repeal of the said Acts.—

(a) Department of Narcotics and liquor, hereinafter referred to as the said Department, shall stand abolished ;

(b) All assets, rights, powers, authorities and facilities as well as all movable and immovable properties of the said department shall stand transferred to and vest in the Department of Narcotics Control.

(c) All officers and employees of the said department shall stand transferred to and become officers and employees of the department and shall serve in the Department on the same terms and conditions as were enjoyed by them immediately before such transfer until the terms and conditions are duly changed by the Government.

(d) All rules framed, orders passed, notifications or notices issued and licences, permits, passes and permissions granted under the said Acts shall, subject to being consistent with the provisions of this Act, continue in force until repealed or amended and respectively be deemed to have been framed, passed, issued or granted under the provisions of this Act.

(e) All suits or cases instituted by or against the said department shall be deemed to be suits or cases by or against the Department.

(3) Every tax, cess or fees or other dues imposed by or under any of the aforesaid Acts, remaining outstanding immediately before the commencement of this Act, shall be recoverable under the said Acts, as if the said Acts have not been repealed.

(4) Rules relating to Excise duty made under Excise Act, 1909 (Ben. Act V of 1909) shall be deemed to be rules relating to Narcotics Duty under this Act and the said rules shall continue to be inforce, *mutatis and mutandis*, until separate rules are made for Narcotics Duty. Throughout the said rules the words "Narcotics Duty" shall be read whenever the words "Excise Duty" occurs unless it is inconsistent with the text.

(5) Narcotics Control Ordinance, 1989 (Ordinance No. XIX of 1989) is hereby repealed.

(6) Notwithstanding such repeal under sub-section (5) any act done or any action taken under the Ordinance shall be deemed to have been done or taken under this Act.

FIRST SCHEDULE

[*See* Section 2 (6)]

A—Class Narcotics

1. Opium poppy or any glutinous substance coming out of it.
2. Any refined, unrefined or manufactured Opium or any article produced with Opium.
3. Opium derivatives, *viz.*, Morphine, Codeine, Thebaine, Noscapaine, Narcotine, Papavarine etc. and their—alkaloids.
4. Any article containing more than 0.2 percent of Morphine.
5. Any synthetic or artificially manufactured narcotics which is similar to opium, *viz.*, Pethidine, Meperdine, Methadone, Dextromoramide, Dihydocodeine, Meperdine-fentanyl, Pentazocaine, Hydromorphine, Omnopone, Alphaprodine, Demeral, Oxycodone, Etrophine, Lofentanyl, Alfentanyl, Alphamethyl, Fentanyl, 3-Methyl Fetanyl, Asscetrophine, Acetylmethadol, Alphacetyl-methadol, Betaprodine etc.
6. Coca leaf, Cocaine or coca derivatives.
7. Any article containing more than 0.1 percent of cocaine or any alkaloid of Cocaine.
8. Tetrahydro-cannabinol in any form, Cannabis resin or Charas or Hashish etc.
9. Acetic-anhydride or any element essential in the manufacture of Heroin, Morphine or Cocaine (if it is found together with Acetic-anhydride, Opium, Morphine, Heroin or Cocaine).
10. Mescaline.

B—Class Narcotics

1. Hemp Plant, Herbal Cannabis, Bhang, Bhang plant or any article manufactured in combination with Herbal cannabis or Bhang.
2. Any other plant (except tobacco) which may be used as a source of narcotics.
3. Alcohol, all kinds of wine and liquor, rectified spirit, any medicine or liquid manufactured with rectified spirit, beer or any liquid containing more than 5% alcohol.
4. L.S.D. or any article containing L.S.D.
5. Barbiturates or any article of the same class.
6. Amphetamine, Methyl amphetamine or any article containing amphetamine.
7. Phencyclidine, Psilocybin, Nicocodine or any article containing these thing.
8. Methaqualone or any article containing Methaqualone.

C—Class Narcotics

1. Tari, Pachwai etc.
2. Denatured-spirit or Methylated-spirit.
3. Chlordiazepoxide, Diazepam, Oxazepam, Lorazepam, Flurazepam, Clorozepate, Nitrazepam, Triazolam, Temazepam etc.
4. Any sedative, tranquilizer or hypnotic medicine not included in the B-Class.
5. Any stimulant or depressant medicine not mentioned in A or B Class.

SECOND SCHEDULE

(*See* section 18)

Sl. No.	Particulars of articles upon which narcotics duty is leviable.	Rate of narcotics duty
1.	Country Liquor :— (a) for all other areas of the country except Tea Garden	Per L.P.G. Tk. 300.00
	(b) for Tea Garden areas	Per L.P.G. Tk. 150.00
2.	Methyl-alcohol	Per L.P.G. Tk. 225.00
3.	Rectified spirit :— (a) A maximum of 8 (eight) 'London Proof Gallon' per annum under the licence of a Homeopathic physician registered under Bangladesh Homeopathic Practitioners Ordinance, 1983 (XLI of 1983)	Per L.P.G. Tk. 50.00
	(b) others	Per L.P.G. Tk. 225.00
4.	Foreign liquor manufactured in Bangladesh.	Per L.P.G. Tk. 750.00
5.	Denatured spirit	Per bulk Gallon Tk. 50.00